

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN E. COMBS,

Plaintiff,

V.

PROGRESSIVE, d/b/a Progressive Northwest
Insurance Company,

Defendant.

Case No. C08-5632FDB

ORDER TO SHOW CAUSE

This insurance cause of action was removed from Pierce County Superior Court on October 17, 2008. Defendant states in the Notice of Removal that the action was commenced in State court on or about September 5, 2008 and that “[t]he first date upon which the defendant received a copy of the Complaint was September 8, 2008.” Defendant alleges diversity as the basis for this Court’s jurisdiction.

In general, a defendant must file in the district court a notice of removal within thirty days after receipt of the first pleading in the state action that sets forth a removable claim. As diversity is alleged as the basis for this Court's jurisdiction, it was apparent that the case was removable from the time Defendant received a copy of the Complaint on September 8, 2008. Defendant then had until October 8, 2008 to remove the matter to this Court. The notice of removal, therefore, being filed on

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1 October 17, 2008 was untimely. Accordingly, a motion to remand by Plaintiff would be appropriate,
2 if Plaintiff so chooses. *See Kelton Arms Condo. Owners Ass'n. Inc. v. Homestead Ins. Co.*, 346 F.3d
3 1190, 1192 (9th Cir. 2003).

4 NOW, THEREFORE, IT IS ORDERED: By no later than October 31, 2008, the parties shall
5 show cause why the Court should not remand this matter to the Pierce County Superior Court.

6 || DATED this 21st day of October, 2008.


FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE

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